UNITED
NATIONS

CERD

International Convention on the Elimination of all Forms of Racial Discrimination

Distr.
GENERAL

CERD/C/299/Add.17
31 July 1997

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Fourteenth periodic reports of States parties due in 1996

Addendum

Yugoslavia*

[24 June 1997]

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* This document contains the eleventh, twelfth, thirteenth and fourteenth periodic reports due on 4 January 1990, 1992, 1994 and 1996, respectively. For the ninth and tenth periodic reports of Yugoslavia, submitted in one document, and the summary records of the meetings at which the Committee considered that document, see CERD/C/172/Add.9 and CERD/C/SR.874-875.

The information submitted by Yugoslavia in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the basic document HRI/CORE/1/Add.40.

GE.97-17628 (E)

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Introduction

1. In accordance with the decision of the Committee on the Elimination of Racial Discrimination, whereby the Government of the Federal Republic of Yugoslavia was requested to send to the Committee a summary report on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, 1/ the Government of the Federal Republic of Yugoslavia is submitting the following.

I. BACKGROUND

2. The Federal Republic of Yugoslavia has undertaken, by virtue of Yugoslavia's uninterrupted personality, as set out in its Constitution of 27 April 1992, to honour in good faith all its obligations under the instruments to which it is a party.

3. Yugoslavia ratified the International Convention on the Elimination of All Forms of Racial Discrimination in 1967. In this connection, the Federal Republic of Yugoslavia, as a State party to the Convention, has complied with and shall continue to honour all the commitments undertaken under the Convention.

4. By virtue of article 1 of the Convention, the human and civil freedoms and rights which ensure equality in respect of all people and citizens in the Federal Republic of Yugoslavia, are guaranteed by the the Federal Republic of Yugoslavia Constitution, by the Constitutions of her member republics (the Republic of Serbia and the Republic of Montenegro) and by relevant laws. One of the main constitutional principles enshrined in all three constitutions is the principle of freedom and equality of citizens. This principle proclaims all citizens equal in their rights and duties irrespective of their nationality, race, gender, language, religion, political or any other beliefs, education, social background, material status and any other personal characteristic. In addition, the basic legal act of the Federal Republic of Yugoslavia, as well as the basic legal acts of the member republics, guarantee the equality of all citizens before the law.

5. In addition to a very wide range of freedoms and rights guaranteed by the Federal Republic of Yugoslavia Constitution, including personal freedoms and rights, as well as the political, cultural, social and economic rights, one should stress in particular the constitutional guarantee of the status of national minorities which will be discussed at more length later on.

6. The constitutional principle of freedom and equality of citizens regardless of any specific characteristic, which is in line with article 1 of the Convention, cannot be restricted by any means except by the equal freedoms and rights of others, and any abuse thereof is unconstitutional and punishable. Any incitement and instigation of national, racial, religious or

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1/ The Federal Government submitted to the Committee an extraordinary report on the implementation of the Convention in 1993 (CERD/C/248), as well as an update in 1994 (CERD/C/248/Add.1).

any other inequality, as well as incitement and fanning of national, racial, religious and other hatred and intolerance, is unconstitutional and punishable.

7. The international treaties that have been confirmed and published in keeping with the the Federal Republic of Yugoslavia Constitution and the generally accepted rules of international law constitute an integral part of the domestic legal order. Since the Convention has been confirmed and published in keeping with the the Federal Republic of Yugoslavia Constitution, it can be directly applied before the courts of law and/or administrative agencies.

8. The demographic structure of the population of the Federal Republic of Yugoslavia according to the latest census available (1991) is as follows:

Total	10,304,026
Serbs	6,504,048
Montenegrins	519,765
Yugoslavs	349,784
Albanians 2/	1,714,768
Hungarians	334,147
Muslims	336,025
Croats	111,650
Romanies	143,519
Slovaks	66,863
Romanians	42,364
Macedonians	47,118
Bulgarians	26,922
Others	213,974

II. INFORMATION CONCERNING ARTICLES 2-7 OF THE CONVENTION

Article 2

9. The constitutions of the member republics, the federal laws, the laws of the member republics and all other regulations and enactments shall be in harmony with the the Federal Republic of Yugoslavia Constitution, and this ensures that the Federal Republic of Yugoslavia's domestic legal acts uphold the constitutional principle on the equality of citizens and the international commitments under the Convention.

2/ According to the census done by the Federal Statistical Office, owing to the boycott of the census by a part of the Albanian population of AP Kosovo and Metohija, as well as in the municipalities of Bujanovac and Presevo, the number of Albanians indicated in the census is an assessed number based on the summary data on the population who took part in the census and the assessed number of the Albanian population who did not take part in the census.

10. The State authorities and organizations exercising public powers are duty-bound to observe and to act in line with the Convention. In case a decision or any other individual act adopted by the judicial, administrative and other State agencies or organizations discharging public duties violates the principle of freedom and equality of citizens, such an act shall be invalidated in a procedure prescribed by law. In addition, any injured party has the right to compensation for any damage caused by an official, a State agency or organization which in the discharge of public office commits illegal or irregular activities, and such damage is to be compensated by the State.

11. The Federal Republic of Yugoslavia Constitution and the constitutions of the member republics prohibit any activities carried out by political, trade union or other organizations which are designed to violate the guaranteed human and civil freedoms and rights or to incite national, racial, religious and other intolerance or hatred. If a certain organization or citizens' association set out in its programme or statute objectives aimed at violating the guaranteed human and civil freedoms and rights, or at the fanning of national, religious, racial or any other intolerance or hatred, such organization or citizens' association shall not be entered in the Register of Organizations, and should such objectives be proclaimed at a later date, such organization shall be banned.

12. The decision-making procedure for banning political parties and citizens' associations is carried out before the Federal Constitutional Court, i.e. before the Constitutional Courts of the member republics, and is initiated ex officio by the government official responsible for entries in the Register of Political Parties and Citizens' Associations or by the competent Public Prosecutor.

13. The subject of protection of the freedoms and rights of members of national minorities in the legal system of the Federal Republic of Yugoslavia is primarily of a constitutional-legal nature, as regulated by the Federal Republic of Yugoslavia Constitution and the constitutions of its member republics.

14. The Federal Republic of Yugoslavia Constitution (April 1992) takes as its point of departure the concept of civil democracy and, therefore, the enjoyment of all constitutional freedoms and rights is exclusively linked to the status of citizenship identical for all citizens irrespective of their nationality. However, notwithstanding the universal human and civil freedoms and rights, the Federal Republic of Yugoslavia Constitution also provides particular rights for members of national minorities and their exercise by members of minorities gives them an additional advantage.

15. The Federal Republic of Yugoslavia Constitutional provisions directly relating to members of national minorities and governing the following rights and freedoms concern: equality on the basis of nationality; the right to preserve, develop and express ethnic, cultural, linguistic and other specificities; the right to use national symbols; the right to the official use of language and script in parallel with the Serbian language in areas inhabited by members of national minorities; the freedom to express nationality and the guarantee that the citizen shall not be obliged to state his nationality, the freedom to express one's national culture; the freedom to

use one's own language and script and the right to use the services of an interpreter in criminal proceedings; the right to education in one's native language; the right to public information in one's native language; the right to set up educational and cultural organizations or associations; the right to establish and maintain unhindered mutual relations in the Federal Republic of Yugoslavia and abroad with persons belonging to one's nation, while residing in another State; the right to take part in international non-governmental organizations, but not to the detriment of the Federal Republic of Yugoslavia or either of its member republics. As a particular form of protection for persons belonging to national minorities, the Constitution prohibits, i.e. prescribes punishment for, any incitement of national hatred or intolerance. The Constitutions of the member republics contain basically the same arrangements for this area.

16. The protection of the rights and freedoms of members of national minorities is more closely regulated by laws, both at the federal and at the republican levels, in the following areas: material and criminal case law and civil legislation; citizens' political organization and associations;, public information; education; official use of languages and scripts; etc.

Federal regulations

17. The Criminal Code, article 134, defends members of national minorities by stipulating that the incitement or fanning of national, racial or religious hatred, discord or intolerance shall be punishable by a term of imprisonment ranging from 1 to 10 years.

18. Under the Law on the Association of Citizens into Associations, Social Organizations and Political Organizations being Established in the Territory of SFRY, the establishment of organizations whose programme and statutary objectives, or their carrying out, are directed toward fanning of national, racial or religious hatred and intolerance is prohibited. A similar provision, apart from the Federal Republic of Yugoslavia Constitution, also exists in the draft law on association of citizens into political parties, trade unions and citizens' associations being established in the territory of the Federal Republic of Yugoslavia, which is in the process of being adopted by the Federal Assembly.

19. The Law on the Basics of the Public Information System lays down that the programme orientation of public media shall not incite national, racial or religious hatred and intolerance.

20. The Law on Criminal Procedure stipulates that, in criminal proceedings the languages and scripts of the nations and national minorities of Yugoslavia must be used on an equal footing in conformity with the Constitution and the law; petition requests to the court may be also addressed in a minority language that is not in official use in that court if that is in line with the Constitution, the law and any other regulation in force in the territory under the court's jurisdiction, and court documents which the court communicates to members of national minorities are to be formulated in their language, provided that the language in question is in official use at the court concerned.

21. The Law on Lawsuit Procedure, like the Law on Criminal Procedure stipulates that if a court uses officially any of Yugoslavia's minority languages, it shall communicate its documents in that language to those persons taking part in the proceedings who belong to the minority in question and who use their language in the court proceedings; participants in proceedings shall address their petition requests to the court in the language of the nation or nationality to which they belong which is in official use at that court, or in a language that is not officially used by that court if this is in conformity with the Constitution, law or any other regulations in force in the territory under that court's jurisdiction; the costs of translation and interpretation into the languages of Yugoslav nations and national minorities incurred in the course of the implementation of the relevant provisions of the Constitution and the law in connection with the right of members of nations and/or national minorities to use their own language are to be borne by the court.

22. The Law on the Publication of Federal Laws, Other Laws and General Enactments stipulates that the Federal Government shall see to it that the federal laws, as well as other federal regulations which are of relevance to the achievement of national minorities' freedoms and rights, are published in the national minorities' languages and scripts in accordance with the federal law.

Regulations of the Republic of Serbia

23. The Criminal Code of Serbia, in article 100 sets out as a separate criminal offence the exposure to ridicule of a nation or a minority or ethnic group living in Yugoslavia, sanctioned by imprisonment for three months to three years.

24. The Law on Public Information stipulates that the distribution of papers and magazines and the dissemination of information by way of public media may only be prevented by a decision brought by the competent court that they instigate national, racial or religious intolerance.

25. The Law on Radio-Television Serbia stipulates that Radio-Television Serbia is to prepare and produce radio and television programming with a view, among other things, to contributing to the assertion of national values of other nations and national minorities living in the Republic of Serbia as well as to the rapprochement and intermingling of cultures of the nations and national minorities in the Republic of Serbia. RTS likewise pursues its activities through its constituent units, Enterprises RT Novi Sad and RT Priština, which prepare and produce radio and television programming in the territory of AP Vojvodina and AP Kosovo and Metohija, both in Serbian and in the minority languages.

26. The Law on Elementary Schools stipulates that educational curricula for members of national minorities be followed in their mother tongue or bilingual instruction where at least 15 pupils so request in enrolling in the first form. If this quota is not met, the Education Minister's concurrence needs to be obtained. The Minister also has the authority to order bilingual instruction following the relevant curricula and teaching plans. Further, when a curriculum is also followed in a minority language, pupils are also

required to master the contents of the subject in the Serbian language; when the curriculum is followed in Serbian, the pupils belonging to national minorities are also provided courses in their mother tongue with elements of their national culture. A school at which courses are also run in a minority language shall keep records in the minority language as well and the Principal is under the obligation to exclude from the teaching process any teacher, technical associate or educator who incites national or religious intolerance until a decision is taken on a disciplinary measure. Apart from the Republic of Serbia, i.e. the republican government, elementary ballet and music schools can be founded or run by legal and natural persons, meaning members of national minorities as well, subject to the fulfilment of all the necessary requirements stipulated by this law and by other relevant regulations.

27. The Law on Secondary Schools regulates this area on principles identical to the Law on Elementary Schools but specifies that school reports are also to be issued in the minority language in which instruction is conducted. Unlike the Law on Elementary Schools, any legal and natural person, including members of national minorities is entitled to set up any type of secondary schools without any limitation, if all the conditions are met. Identical provisions exist in other regulations as well and in that context those provisions and regulations need to be applied accordingly (the Law on Public Services, the Law on Enterprises, etc.).

28. The Law on Post-Secondary Schools stipulates that instruction at post-secondary schools can also be conducted in a minority language in which case records have to be kept on the diplomas issued in that language, whereas public documents are issued in a bilingual format. A post-secondary school may be founded by the Republic of Serbia, meaning the republican government, as well as any juridical or natural person, as is the case with secondary schools.

29. The Law on Universities includes completely identical provisions with regard to the right of persons belonging to national minorities as the Law on Post-Secondary Schools.

30. The Law on the Official Use of Language and Script regulates this matter more comprehensively than any other regulation mentioned thus far, stressing in particular that national minorities' languages and scripts are in official use in parallel with the Serbian language in the territory of the Republic of Serbia inhabited by members of national minorities, in the manner laid down by this law. For the purposes of this law, the official use of a language and script is understood to mean the use of a language and script by the government agencies or officials, by the agencies in the autonomous provinces, towns and municipalities, institutions, enterprises and other organizations when they discharge public functions, public enterprises and public services, as well as other organizations when they carry out works laid down by this law. The Law elaborates on the manner of using languages and scripts in different situations, as, for example, the use of more than one minority language, the inscription of geographical names, names of streets and squares, traffic signs and other public inscriptions, names of legal persons as well as names of persons forming part of public inscriptions, the competence to bring decisions on when and where minority languages are to be used, the use of languages and scripts in proceedings before the judiciary and administrative

agencies as well as other organizations when they carry out public duties, the keeping of prescribed records, issuance of public documents and so forth.

31. The practical enforcement of the constitutional provisions and particularly the provisions of relevant laws regulating the official use of languages and scripts in the Republic of Serbia will be illustrated by the example of the Autonomous Province of Vojvodina which is unique by its national makeup: Serbs account for 57.3 per cent of its population, Hungarians 16.9 per cent, Yugoslavs 8.4 per cent, Croats 3.7 per cent, Slovaks 3.2 per cent, Montenegrins 2.2. per cent, Romanians 1.9 per cent, Romanies 1.2 per cent, Bujanovac 1.1. per cent, Ruthenians 0.9 per cent, Ukrainians 0.24 per cent and others 3.2 per cent. The Statute of the AP Vojvodina as the basic law of the province stipulates the official use in the work of the agencies of AP Vojvodina, in parallel with the Serbian language and the Cyrillic script (and the Latin script in the manner laid down by law), of the Hungarian, Slovak, Romanian and Ruthenian languages and their respective scripts, as well as the languages and scripts of other national minorities in the manner laid down by law. Regular simultaneous interpretation into five languages is provided at the sessions of the Assembly of Vojvodina. The provincial agencies of government administration are provided with the means to ensure communication with clients (citizens) in minority languages. Courts of law in Vojvodina have the capacity to conduct proceedings in the languages which are in official use in their respective territories and in case this is not provided, the services of a professional interpreter are to be provided.

32. Of a total of 45 municipalities in the AP Vojvodina, 37 municipalities have by their statutes regulated the official use of national minorities' languages and scripts in their respective territories in such a manner that now one or more minority languages are officially used. In parallel with Serbian, the Hungarian language and script are officially used in 31 municipalities. Slovak in 12 municipalities, Romanian in 10 municipalities, Ruthenian in 6 municipalities, and there is 1 municipality where the Czech language is in official use (there are no more than 2,910 Czechs living in Yugoslavia, of whom 1,844 are residents of Vojvodina). In a large number of municipalities, several languages and scripts are used concurrently on an equal footing.

33. In the Republic of Montenegro the relevant constitutional provisions governing this area are being applied directly. Particular mention should be made here of the provision of the Constitution of the Republic of Montenegro (art. 68) by virtue of which persons belonging to national and ethnic groups are guaranteed the right to freely use their language and script, the right to schooling and the right to information in their native language.

34. The Law on Textbooks and Other Teaching Aids regulates the printing of textbooks in the languages of a national minority, thus fulfiling the preconditions for instruction in a minority language.

Regulations of the Republic of Montenegro

35. The Criminal Law of Montenegro in article 52 sets out as a specific criminal act denying or restricting, on the grounds of nationality, any human

and civil rights laid down by the Constitution, the law or any other regulation, punishable by three months to five years in prison. Anyone who, contrary to the relevant regulations governing equitable use of languages or scripts, denies or obstructs, a citizen's right to use his language or the script of his choice in the exercise of his rights or in addressing agencies or organizations shall be punished by one year's imprisonment.

36. The Law on Public Information prohibits any programme orientation or editorial policy of the public media designed, inter alia, to fan national, racial and religious hatred and intolerance.

37. The Law on Association of Citizens, as well as the relevant federal law, prohibits the organization and activities of political organizations, social organizations and citizens' associations, whose objectives include, among other things, the fanning of ethnic, racial and religious hatred and intolerance. A particular provision sets out that persons sentenced for criminal acts of fanning ethnic, racial and religious hatred and intolerance cannot in the five years following the completion of their sentence, found such an organization.

38. The Law on Public Order and Peace prohibits any insults in a public place - oral or written, or in any other manner - of national, religious or other feelings of citizens, as well as barring any legal person from producing or putting into circulation a sign, a drawing or any other object constituting an insult to those feelings.

39. The Law on Elementary Schools stipulates that in the areas inhabited by a large number of ethnic Albanians, schools or classes are to be founded with instruction in Albanian as well as with bilingual instruction. When instruction at such schools is conducted in Albanian, pupils have the Serbian language as a compulsory subject and the register is kept and certificates issued in both Serbian and Albanian. Similar to the provision in the relevant law of the Republic of Serbia, apart from the Republic of Montenegro, legal and natural persons may only found and run elementary art schools subject to meeting all the necessary requirements.

40. The Law on Secondary Schools stipulates that, conditions and possibilities permitting, ethnic Albanians may receive schooling in the Albanian language. In the areas co-inhabited by persons belonging to Yugoslav peoples and ethnic Albanians, schools or classes may be established with bilingual instruction, whereas schools for ethnic Albanians are founded and instruction conducted there in Albanian within the framework of a unified education and schooling system laid down by the law. When instruction is conducted in the Albanian language, students study the Serbian language as a compulsory subject. The legal provisions on the register and certificates and diplomas are identical to the corresponding provisions of the Law on Elementary Schools. Legal or natural persons may found secondary schools without any limitation subject to meeting all the required conditions.

41. The Law on the University includes provisions identical, in principle, to those set out in the Law on Secondary Schools, especially the provisions on

the use of the Albanian language in the conduct of instruction and issuance of public documents, as well as the possibility for legal or natural persons to found and run institutions of higher education.

42. The Law on the Seal of the Republic of Montenegro and the Seals of the State Agencies stipulates that in the municipalities or particular areas within them, where, in keeping with the law and the municipal statute, bilingual administration is maintained, the text of the seal of the name of the agency having its seat in that particular area shall be written in the Serbian language, and in the language of the Albanian nationality.

43. The competent mechanisms for monitoring and overseeing the exercise of the freedoms and rights are with the legislative and executive agencies of the federal and republican authorities. A particular role here is played by the Federal Ministry of Justice and its Sector for Human Rights, the Federal Ministry for Foreign Affairs, as well as the newly established office of Minister in the Government of the Republic of Serbia responsible for national minority issues, whereas in the Republic of Montenegro these issues are within the competence of the Council for the Protection of Rights of Members of National and Ethnic Groups.

44. The Constitution of the Federal Republic of Yugoslavia goes a step further than the International Covenant on Civil and Political Rights and envisages a separate right for members of national minorities to maintain links and relations with their mother State. In this manner, the Federal Republic of Yugoslavia wishes to foster goodneighbourly relations with its neighbours on the basis of equality, observance of sovereignty, respect for territorial integrity and for mutual benefit. This is in the interest of all peoples and it serves as a basis for stability in the region. The peoples of the Federal Republic of Yugoslavia and its neighbours are destined to live side by side and members of national minorities in these States should serve as the bridge for good-neighbourly cooperation.

Article 3

45. Since the submission of the tenth periodic report, Yugoslavia has continued to meet the commitments undertaken upon the ratification of the Convention on the Suppression and Punishment of the Crime of Apartheid (ratified in 1975). Honouring its commitments under the Convention, the Federal Republic of Yugoslavia defined in its criminal law as a crime any act committed by a person who persecutes an organization or an individual on the grounds of their advocacy of the equality of men. The envisaged punishment for the mentioned crime is a term of imprisonment ranging from six months to five years.

46. Apart from that, bearing in mind the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide, as well as the Convention on the Suppression and Punishment of the Crime of Apartheid, the Federal Criminal Code, article 141, prescribes the criminal act of genocide. This criminal act is committed when a person carries out certain acts deliberately and according to a plan against persons belonging to a national, ethnic,

racial or religious group with a view to its total or partial destruction. The envisaged punishment for such an act is a term of imprisonment ranging from 5 to 20 years.

47. As early as in 1963, Yugoslavia adopted, in accordance with the relevant United Nations General Assembly resolutions, the law banning the holding and establishment of economic relations with the Republic of South Africa which ceased to be valid following the 1994 parliamentary elections and the establishment of democracy in that country.

Article 4

48. Yugoslavia is a signatory to all important international agreements pertaining to the condemnation and ban on any racial and other discrimination. Apart from the International Convention on the Elimination of All Forms of Racial Discrimination, Yugoslavia has also ratified the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights as well as the International Convention on the Suppression and Punishment of the Crime of Apartheid.

49. The acts prohibited by these international instruments formed the basis for the stipulation of several criminal acts by the Yugoslav criminal legislation. As a result, the criminal activities envisaged by the International Convention on the Suppression and Punishment of the Crime of Apartheid are for the most part incorporated in the institution of the criminal act of genocide as stipulated in article 141 of the Criminal Code of the Federal Republic of Yugoslavia, as mentioned above. The implementation of the constitutional principle according to which all citizens of the Federal Republic of Yugoslavia are equal and free irrespective of their distinctive features or personal characteristics is ensured under the criminal law by stipulating that any violation of the equality of citizens is a crime under the federal and republican criminal laws depending on who the crime is perpetrated by. Incitement of national or racial hatred among peoples and national minorities living in the Federal Republic of Yugoslavia likewise represents the crime of racial and other discrimination, an act prohibited by international law but not covered by any other previously mentioned incrimination. As a rule, the latter pertains to cases of discrimination against persons other than Yugoslav citizens or to acts committed abroad.

50. The provisions on citizens' equality in the Federal Republic of Yugoslavia Constitution and in the constitutions of the member republics were the basis for the definition of the criminal act of violation of citizens' equality prescribed by the federal criminal law and by the criminal laws of the member republics. The definitions of that crime given in all three laws are identical, the only difference being the characteristic of the perpetrator. The mentioned criminal acts may be committed by anyone who is in a position to deny or restrict a citizen's right or to grant citizens benefits and facilities. In most cases these are government officials, military and other responsible officials, and if the perpetrator is a government official serving in the federal agencies or a military officer, such a person shall answer under the federal criminal law, i.e. article 186 of the Criminal Code of the Federal Republic of Yugoslavia, and in case such acts are committed by anyone else, they will answer under article 60 of the Criminal Law of the

Republic of Serbia or under article 52 of the Criminal Law of the Republic of Montenegro. The fact that this criminal offence is defined in almost identical terms and in all three laws is a consequence of the shared legal responsibility in the criminal-legal field of the federal State and the member republics.

51. Pursuant to article 186 of the Criminal Code of the Federal Republic of Yugoslavia, article 60 of the Criminal Law of the Republic of Serbia and article 52 of the Criminal Law of Montenegro, whoever on the ground of difference in terms of nationality, race, confession, political or other belief, ethnic origin, gender, language, education or social background, denies or restricts any citizen's right laid down by the Constitution, the law or any other regulation or enactment or ratified international treaty, or whoever grants on the grounds of this difference benefits or facilities to citizens is to be punished. The envisaged sentence for this act perpetrated against one or several citizens of the Federal Republic of Yugoslavia, is imprisonment ranging from three months to five years.

52. We wish to stress on this occasion that the above-mentioned definitions of the criminal act of violation of citizens' equality were amended in 1990 following the adoption of new amendments to the federal criminal law and the new amendments to the Criminal Law of the Republic of Serbia pursuant to article 1, paragraph 1, of the Convention, so that any discrimination made on the grounds of citizens' political or any other beliefs, as well as any denial or abridgement of the citizens' rights laid down by a ratified international treaty, is regarded as a crime. The harmonization of the Criminal Law of Montenegro with the Federal Criminal Code is under way.

53. In particular, the criminal laws of the member republics define as a crime any infringement of the citizens' right to use their mother tongue which can take the form of denial or restriction of the right to use a language or a script committed to the detriment of any citizen of the Federal Republic of Yugoslavia.

54. The Criminal Code of the Federal Republic of Yugoslavia defines as a crime the incitement of national, racial and religious hatred, discord or intolerance and any act of racial and other discrimination. Any person who incites or fans national, racial or religious hatred, sows discord or intolerance among peoples and national minorities living in the Federal Republic of Yugoslavia is to be punished by one to five years' imprisonment.

55. In case the above act has been committed under duress, through ill-treatment, by endangering someone's safety, by exposing to ridicule certain national, ethnic or religious symbols, by inflicting damage to other people's belongings, as well as desecration of monuments, memorial complexes or tombstones, the perpetrator shall be punished more severely under the law in force, namely by 1 to 10 years' imprisonment.

56. The gravest forms of the criminal offence of instigation to national, racial or religious hatred, strife or intolerance are those committed by abuse of office or powers, the sentence envisaged ranging between one and eight years of imprisonment; if resulting in riots, violence or other grave consequences for the common living of the peoples or national minorities

residing in the Federal Republic of Yugoslavia, they shall be sentenced to from 1 to 10 years' imprisonment. The criminal offence referred to may be:

(a) Violation of the fundamental human rights and freedoms recognized by the international community, on the basis of differences in race, colour, nationality or ethnic origin, with the envisaged sentence of imprisonment ranging between six months and five years;

(b) Persecution of organizations or individuals because of their advocacy of the equality of men, the envisaged punishment also being imprisonment from six months to five years;

(c) Spreading the idea of the superiority of one race over another, propagation of racial hatred or instigation to racial discrimination, the envisaged punishment for which is imprisonment from three months to three years.

Article 5

57. The Federal Republic of Yugoslavia Constitution sets forth that everyone shall be entitled to equal protection of their rights in a statutorily specified procedure, and everyone is guaranteed the right to appeal or resort to another legal remedy against a decision concerning their rights or interests stemming from the law (art. 26).

58. The Federal Republic of Yugoslavia Constitution guarantees respect for the human person and the dignity thereof in criminal and any other proceedings in case of deprivation and/or restriction of freedom, as well as during the serving of sentences. Any violence against a person deprived of freedom or whose freedom has been restricted, as well as any extortion of confessions and statements, is prohibited and punishable. The Constitution stipulates that no one may be subjected to torture or degrading punishment and treatment, prohibiting any medical or other experiments on a person without his permission (art. 25). With a view to guaranteeing respect for the human person and dignity, the Criminal Code of the Federal Republic of Yugoslavia and the criminal laws of the member republics define as a criminal offence any harassment in the discharging of office (art. 191 of the Criminal Code of the Federal Republic of Yugoslavia, art. 66 of the Criminal Law of the Republic of Serbia and art. 57 of the Criminal Law of the Republic of Montenegro - harassment in discharging office, as well as art. 65 of the Criminal Law of the Republic of Serbia and art. 56 of the Criminal Law of the Republic of Montenegro - extortion of statements).

59. The Federal Republic of Yugoslavia Constitution guarantees, for the first time in Yugoslavia, the following political freedoms and rights: freedom of the press and other mass media, guaranteed on the basis of registration of activity; censorship of the press is prohibited; political, trade union and other organizations and activities require no permission but the registration of activity; freedom of assembly and other peaceful gatherings requires no permission but notification of the assembly; the right to criticize in public the work of State organs and officials, and protection from responsibility of such criticism unless it involves the commission of a criminal offence.

60. In the sphere of personal freedoms and rights, the following are specifically spelled out, always with a view to protecting the status and rights of the citizen in the context of criminal proceedings: the obligation of the authority depriving the individual of liberty to inform the individual in his mother tongue of the reasons thereof, and the obligation of the same authority to so inform his next of kin; the stipulation to warn the individual that he is under no obligation to make any statement and to advise him of his right to counsel immediately upon his having been deprived of liberty; any torture or extortion of statements from persons deprived of freedom is prohibited. In addition, the personal freedom of movement and establishment of residence has been specifically extended to include the right to leave the country and return; personal freedom of religion has been spelled out as the freedom of the public or private practice of religion and religious rites, specifying, in particular, the right not to declare one's religious convictions. This set of freedoms and rights also includes the specific provision on the protection of personal data and of the individual's right to be informed of data collected on him.

61. The Federal Republic of Yugoslavia Constitution guarantees Yugoslav citizens of 18 years of age the right to vote and stand for elections for State bodies, and the criminal laws of the member republics and the Federal Electoral Law envisage as criminal offences acts of violation of the right to vote, violations of freedom of choice at voting and abuse of the right to vote.

62. Members of national minorities have the right to self-organization, political organization and political representation. It is a fact that members of national minorities, apart from the Albanian national minority, are exercising this right in accordance with the Constitution and the law.

63. According to the 1990 Constitution of the Republic of Serbia, the Republic of Serbia consists of two autonomous provinces - its constituent parts (AP Vojvodina and AP Kosovo and Metohija). The autonomous provinces are constituted in compliance with the national historical, cultural and other characteristics of their respective regions. The AP authorities shall adopt their respective programmes of economic, scientific, technological, demographic, regional and social development, their respective budgets and financial statements, general decisions and general enactments, in compliance with the Constitution and law. They enforce laws, other regulations and general enactments of the Republic of Serbia, the implementation of which is within the competence of the authorities of the autonomous provinces, establish agencies and organizations and services of the autonomous province, and perform other activities stipulated by law and the Constitution. Each province has its Statute, adopted by its Assembly with the previous consent of the National Assembly of the Republic of Serbia. The authorities of the autonomous provinces are: the Assembly, the Executive Council and the administrative authorities. Such constitutional arrangements were not to the liking of ethnic Albanian secessionist leaders from Kosovo and Metohija, who discontinued every dialogue not only with institutions envisaged by the Constitution (the Government, the National Assembly and President of the Republic), but also with other national minorities, which resulted in problems and conflicts. The authorities of the Republic of Serbia are making every

effort to overcome the existing problems and conflicts. However, they are not getting an adequate response. Moreover, ethnic Albanians who are willing to cooperate with the authorities are subjected not only to boycotts, threats and physical assaults by ethnic Albanian separatist forces, but also to armed and terrorist attacks, occasionally fatal.

64. The Autonomous Province of Vojvodina, in contrast to the Autonomous Province of Kosovo and Metohija, is an example of a markedly multi-ethnic community. Manifestation, preservation and promotion of ethnic affiliation and relations of tolerance against the background of cultural and ethnic pluralism are the main characteristics of the life of members of national minorities in the territory of AP Vojvodina. On many occasions have the citizens - members of national minorities in Vojvodina - declared that they consider Yugoslavia their homeland, in which they fully exercise their right to ethnic affiliation. Members of the non-dominant national minorities in Vojvodina maintain that the prerequisite for good inter-ethnic relations is the Constitution of the Federal Republic of Yugoslavia, based on democratic principles of a civil State of equal citizens irrespective of their nationality. The four largest national minority communities in Vojvodina feel that guarantees for the stability of the status of ethnic groups are to be found in the Constitution and laws, the promotion of democratic relations, tolerance and confidence, the guarantees of the State, as well as in the consistent observance in practice of the proclaimed rights and in adequate material and institutional resources. Members of these dominant, as well as other national minorities are represented in the provincial and, in particular, local authorities.

65. Based on the above, the conclusion can be reached that members of national minorities in the Federal Republic of Yugoslavia, except for almost all members of the Albanian national minority in Kosovo and Metohija, exercise their right to political organization in compliance with the Constitution and law.

66. The Federal Republic of Yugoslavia Constitution and corresponding laws guarantee and safeguard the rights specified in article 5 (d) (i) to (ix) and 5 (e) (i) to (vi) of the Convention.

67. The rights specified under article 5 (f) of the Convention have in no way been restricted in respect of anyone in the Federal Republic of Yugoslavia.

Article 6

68. Article 26, paragraph 2, of the Federal Republic of Yugoslavia Constitution guarantees everyone the right to appeal or another legal remedy against decisions concerning one's rights or interests stemming from the law. Abuse of the freedoms and rights of man and the citizen is unconstitutional and punishable, i.e. the freedoms and rights guaranteed by the Federal Republic of Yugoslavia Constitution enjoy judicial protection. In the event the violation of a guaranteed freedom or right constitutes a criminal offence, criminal proceedings shall be instituted against the perpetrator, in the majority of cases ex officio by the competent prosecutor, and in a lesser number of cases by private action of the injured party. In case of the

violation of an individual's freedoms or rights of man or the citizen guaranteed under the Federal Republic of Yugoslavia Constitution by an individual act or action of judicial, administrative or other State organ or legal entity discharging public office, that individual has the right to lodge a constitutional appeal with the Federal Constitutional Court, if other legal protection has not been provided for.

69. Apart from the persons whose rights or freedoms have been violated, constitutional complaints may be lodged on their behalf by groups of citizens or another legal entity which is bound under its rules to protect the freedoms and rights of man and the citizen whose protection before the court is sought. In addition, the federal body responsible for human and minority rights is also entitled to lodge a constitutional appeal on behalf of the injured party, at the request of the latter or when the body deems it necessary.

70. If the Federal Constitutional Court establishes that a right or freedom guaranteed under the Federal Republic of Yugoslavia Constitution has been violated by an individual act of a State organ or other legal entity discharging public office, the Court shall rescind that individual act and rule that its resulting consequences be reversed. In the event of violation of the rights or freedoms in question through action of the mentioned bodies, the Court shall prohibit any further performance of such action and shall order the reversal of consequences arising from such action.

71. Everyone is entitled to compensation of material or non-material damage inflicted through the unlawful or irregular operation of an official or a State body or a legal entity discharging public office. The damages shall be compensated by the State or the legal entity discharging public office.

Article 7

72. In the sphere of education, the point of departure is the standards specified under the Convention against Discrimination in Education, adopted by the UNESCO General Conference in 1960 and ratified by Yugoslavia under a 1964 decree. This Convention prohibits any discrimination or distinction on the basis of race, sex, language, religion, political or other convictions, national or social origin, the objective or consequence of which is the annulment or impairment of equal treatment in the sphere of education. Article 5 (c) of the Convention specifically emphasizes that members of national minorities shall enjoy the right to use their own language and to carry out instruction in it, provided that such right is exercised in a way which does not prevent national minorities from understanding the culture and language of the community at large and from participating in its life, and in a way which does not endanger national sovereignty; the level of instruction in such schools should not be below the general level prescribed or approved by the competent authorities and, finally, attendance at such schools should be a matter of free choice. The aforementioned, as well as other provisions of the Convention, have been incorporated in the Yugoslav internal legal system.

73. In the Federal Republic of Yugoslavia education is accessible to all under equal conditions, with eight-year elementary education being compulsory.

Regular schooling in any of the languages which are in equal official use, at the primary, secondary and higher levels, is free of charge.

74. The constitutional right to education of members of national minorities in their mother language has been spelled out in a number of republican laws and other regulations. The educational process in the languages of the nationl minorities has been organized from the preschool level to education at institutions of higher learning. Thus, for instance, in the territory of AP Vojvodina, according to figures for the 1993/94 school year, elementary education is provided in five languages: Serbian, Hungarian, Slovak, Romanian and Ruthenian. In 38 of the 45 communes in Vojvodina, instruction was carried out in one or more languages of national minorities: in Hungarian in 29 communes, in Slovak in 12 communes, in Romanian in 10 communes and in the Ruthenian language in 3 communes. Instruction in the Bulgarian language, or bilingual instruction, is delivered in 38 elementary schools in communes with a higher concentration of the Bulgarian national minority (such as Bosilegrad and Dimitrovgrad), with 2,451 pupils attending.

75. Pupils of the Hungarian national minority follow instruction exclusively in their mother tongue in 42 elementary schools in Vojvodina, of the Slovak minority in 7, of the Romanian in 13 and the Ruthenian in 1 elementary school. Parallel teaching in Serbian and one of the minority languages is carried out in 100 elementary schools, and in another 2 schools there is parallel instruction in the languages of three national minorities. Of the total school population in Vojvodina, instruction in the Hungarian language from the first to the eighth grade is attended by 11.54 per cent, in the Slovak language by 2.19 per cent, in Romanian 0.82 per cent and in Ruthenian 0.35 per cent of the pupils, which approximately corresponds to the ethnic mix of Vojvodina. In communities where teaching is carried out in the Serbian language only, pupils whose mother tongue is other than Serbian have their mother tongue with elements of their national culture as an optional subject, with two classes a week from the first to the eighth grade.

76. In 37 secondary schools in Vojvodina instruction is carried out in one of the four national minority languages: in Hungarian in 27 schools, in Slovak in 2 schools, in Romanian in 2 schools and in Ruthenian in 1 secondary school.

77. Teaching in the languages of the national minorities (Hungarian, Slovak, Romanian and Ruthenian) is carried out in 18 communes of Vojvodina, in 12 high schools and 20 vocational schools with 290 classes and 7,240 pupils. In the elementary and secondary schools in which instruction is provided in the national minority languages, records are kept in these languages also, and the school certificates are also issued in these languages.

78. Higher and university education in Vojvodina in the Hungarian language is organized at seven faculties, in Slovak at two, in Romanian at two and in Ruthenian also at two faculties.

79. According to the data for the 1993/94 school year, 11 two-year post-secondary schools of higher learning in Vojvodina were attended by 717 student members of the Hungarian, Romanian, Slovak or Ruthenian national minority, 466 of them following instruction in their mother tongue. Out of

the total number of students belonging to national minorities, among those studying at these schools in their mother tongue the Hungarians accounted for 69.3 per cent, Slovaks for 32 per cent, Romanians for 91.07 per cent and Ruthenians for 4.76 per cent. At 13 institutions of higher learning in Vojvodina there were 1,598 student members of national minorities, with 357 of them pursuing their higher education studies in their mother tongue.

80. The schooling in the Autonomous Province of Kosovo and Metohija is organized in the same manner: solely out of political considerations, however, the Albanians refuse to accept the uniform educational system applied throughout the territory of the Republic of Serbia, the curricula adopted by the competent State organs, and the uniform system of diplomas and degrees. The differences in the curricula are not great, with four subjects being controversial: language, history, geography and music. All attempts at reaching an agreement, even with international mediation in Geneva, bore no fruit due to the obstructive stance of the members of the Albanian national minority; the Albanian separatists refuse to submit their curricula to the Ministry of Education of the Republic of Serbia for verification. Nevertheless, and despite everything, the Republic of Serbia is allocating considerable funds for the maintenance and provision of instruction for members of the Albanian national minority.

81. The Republic of Serbia and the Federal Republic of Yugoslavia have so far exhibited a marked willingness to make concessions so that the Albanian children do not suffer the consequences of this senseless policy. The State organs have been willing to recognize the years of schooling spent within the unlawful school system on the condition that the diplomas should be issued by the competent authorities of the Republic of Serbia, but not even this offer has been accepted. The Albanian separatists keep insisting that the school-leaving certificates and diplomas be issued by the unlawful bodies of the non-existent and unrecognized "Republic of Kosovo".

82. In 1992, within the framework of the International Conference on the Former Yugoslavia, the Government of the Federal Republic of Yugoslavia submitted the following proposal to deal with the problem of education in Kosovo and Metohija:

(a) Agreement stipulating maximum guarantees for the preservation and promotion of the cultural identity of members of the Albanian national minority in the Federal Republic of Yugoslavia;

(b) Return to work of all Albanian teachers who left their positions of their own accord (except the few who have committed criminal offences);

(c) Recognition of two years' attendance by Albanian pupils of the parallel and unlawful educational system;

(d) Instruction at all levels to be carried out in the existing State school buildings; and

(e) Recognition of the 1990 school curriculum of the Republic of Serbia.

This proposal of the Government of the Federal Republic of Yugoslavia still stands, but the Albanian secessionist leadership in Kosovo and Metohija are adamantly refusing it.

83. On the occasion of the visit of the Committee on the Elimination of Racial Discrimination, the delegation offered their good offices in this matter taking the above proposal as the basis for negotiations.

84. As a result of the concern for education and, thus, for the future of ethnic Albanian children and youth in Kosovo and Metohija, there is an ongoing dialogue in the Republic of Serbia on the normalization of the educational system in the territory of Kosovo and Metohija.

85. According to the data for Montenegro, in the school year 1995/96, 3,118 pupils of Albanian nationality enrolled at 11 elementary schools in the territory of the Republic of Montenegro in which instruction is provided in the Albanian language.

86. According to the 1995/96 school year figures, there are three secondary schools operating in the territory of the Republic of Montenegro (in Plav, Tuzi and Ulcinj), providing instruction in the Albanian language by 83 teachers of Albanian nationality, attended by 900 pupils of Albanian nationality.

87. In view of the provisions of the Federal Republic of Yugoslavia Constitution laying down the right of national minorities to public information in their own language, as well as in view of the corresponding provisions of the republican laws on public information, international standards can be considered to have been met in this field as well.

88. According to the 1994 statistical data, the following numbers of daily papers, magazines and various bulletins were published in the Federal Republic of Yugoslavia in the following languages: 75 in Hungarian, 17 in Romanian and Ruthenian, 12 in Czech and Slovak, 25 in Albanian, 3 in Turkish, 3 in Bulgarian. Nineteen papers and 36 magazines were issued in a number of languages.

89. In accordance with the provisions of the Constitution of the Republic of Serbia and of the Law on Public Information, there are a large number of papers in Serbia published in the languages of the national minorities (Albanian, Hungarian, Slovak, Romanian, Ruthenian, Ukrainian, Turkish, Bulgarian and the Romany language). All the papers in the languages of the national minorities are edited by members of the respective national minorities.

90. In the Republic of Serbia, under the Republican Law on Public Information, the publishing of newspapers is open to all without prior permission, requiring only registration with the competent court. It is within the purview of AP Vojvodina to ensure the necessary conditions for public information to be provided also in the languages and scripts of the national minorities. For example, in 1994, funds were allocated from the budget of AP Vojvodina to subsidize the publishing of 14 dailies and 4 magazines in the languages of the national minorities.

91. Radio-Television Priština broadcasts television and radio programmes in the Albanian language, with another six local radio stations also on the air. Twenty-five dailies with an annual circulation of 21 million copies and 40 magazines with a circulation of 300,000 copies are published annually in the Albanian language.

92. Radio Priština broadcasts Albanian language programmes every day starting at 3.30 p.m. The programme basically consists of news and music. In addition to the news, broadcast every hour, the following information programmes are also broadcast: the Midday Journal (10 minutes); Events of the Day at 3 p.m. (30 minutes); the Evening Journal at 6.30 p.m. (30 minutes) and Daily Chronicle at 10 p.m. (15 minutes). The news in Albanian broadcast by Radio Yugoslavia from 9 to 9.15 p.m. is also transmitted every day. Radio Priština broadcasts a Turkish language programme every day from 11 a.m. to 6 p.m. In addition to information broadcasts, news and journals, there are also culture, science, education, features and drama, entertainment, sports and music programmes. Also, Radio Priština broadcasts two 60-minute programmes in the Romany language (on Thursdays and Sundays, dealing with important developments in the life, culture and customs of the Romanies).

93. In addition to Radio Priština, local radio stations operate in Kosovo and Metohija such as Radio Metohija (Pes) and Radio Kosovska Mitrovica, broadcasting programmes in the languages of the national minorities (Albanian, Turkish, Romany).

94. Television Priština broadcasts every day news in Albanian (10 minutes) and a newsreel (25 minutes); on the average Television Priština broadcasts 47 minutes of Albanian - language programming daily, or 329 minutes weekly, or 17,019 minutes annually. In addition to the Albanian language, Television Priština also broadcasts programmes in the Turkish language of a total duration of 10,316 minutes annually, as well as a news magazine in the Romany language, of 1,178 minutes annually.

95. The Albanian-language programmes of Radio Priština and Television Priština, like those in the Serbian and Turkish languages, have their own desks and staff with editors-in-chief responsible for their preparation and broadcasting.

96. There is a disproportion between Serbian- and Albanian- language programmes, chiefly owing to the shortage of ethnic Albanian staff. There is a standing invitation for applications to fill the vacancies, but the response of qualified staff is inadequate, on account of the refusal of members of the Albanian national minority to work for State-financed enterprises.

97. In 1994, of the total of 285,827 hours of radio and TV broadcasts in the Federal Republic of Yugoslavia, 6,454 hours were in the Albanian language, 105 hours in the Bulgarian language, 19,543 hours in Hungarian, 3,599 in Romanian, 1,803 in Ruthenian, 5,485 in Slovak, 3,149 in Turkish, 48 in Ukrainian and 4,614 in other minority languages.

98. Radio stations in AP Vojvodina broadcast programmes in eight languages: Serbian, Hungarian, Slovak, Romanian, Ruthenian, Ukrainian, Macedonian and Romany. The radio programme in Hungarian is around the clock - broadcast

24 hours a day, in Slovak 7 hours a day on the average, in Romanian also 7, in Ruthenian 4 hours a day. These are the data for radio Novi Sad, the central station for the area of Vojvodina, with 27 regional and local radio stations in the province, 4 of which prepare and broadcast programmes in four languages, 6 of which have programmes in three languages, 8 of which have programmes in two languages, and 4 of which broadcast their programmes in one language.

99. Television Novi Sad broadcasts regular programmes in four languages in addition to the Serbian language - in Hungarian every day, and five to six times a week in the Slovak, Romanian and Ruthenian languages.

100. In 1993, the following number of books and brochures were published: 48 in Hungarian, 17 in Czech and Slovak, 16 in Romanian, 5 in Albanian, 1 in Bulgarian, and 221 books in several languages. That year, the 41 books published in the Hungarian language had an average circulation of 1,000 copies, the 7 books in Slovak had a circulation of 500 and the 6 books in Romanian and 7 in Ruthenian had a circulation of 500 copies each. The library network of Vojvodina features, in keeping with the ethnic mix of the population, the following stocks: 76.67 per cent of the books are in Serbian, 15.65 per cent in Hungarian, 1.12 per cent in Slovak, 1.04 per cent in Romanian and 0.22 per cent in Ruthenian.

101. In conformity with the provisions of the Law on Public Information of the Republic of Montenegro, a number of Albanian-language dailies are published in this republic, as well as the monthly magazine Fati, printed in Ulcinj, and the weekly Polis printed in Podgorica. Television Montenegro broadcasts 15 minutes of news in Albanian every day, on Saturdays a news and culture programme of 60 minutes, and a 30-minute news broadcast every day on the radio.

102. The interests of the minority population in the area of creative work and culture are fostered by their central cultural and publishing societies, their communities and associations which make programmes in cooperation with cultural institutions in the province and carry out activities to preserve and foster their national identity, and preserve and promote their national language, literature, art and folklore.

103. In the cultural institutions of Kosovo and Metohija no organized walkouts by members of the Albanian national minority have been staged. On the contrary, Albanians are employed in almost all cultural establishments and in fact account for the majority of the staff in many of them. Thus, for instance, in cultural centres in most of the cities there are more Albanians among the employees than Serbs. Of the eight employed in the Provincial Cultural Centre in Priština, three are Serbs, and in the Communal Cultural Centre in Glogovac all the staff are Albanian; the same is true of the State archives and museums. For instance, in the Museum of Kosovo and Metohija, of the 34 employed, 20, i.e. 60 per cent, are ethnic Albanians. In the Institute for the Protection of Cultural Monuments of Kosovo and Metohija, of the 25 employed, 10 are ethnic Albanians, and the ratio is similar in other communal institutes as well.

104. The National Theatre in Priština has two organizational units - the Serbian Drama Ensemble and the Albanian Drama Ensemble, with the latter having a larger number of actors and other artistic and technical staff. The situation is the same in the Youth Theatre and the Puppet Theatre in Priština and in the Djakovica Theatre where the majority are ethnic Albanians. These and other theatres from Kosovo and Metohija stage plays in the Albanian language not only in this province but also on tours, staging guest performances throughout the country and abroad. The National Theatre in Novi Sad has a Hungarian-language drama organizational unit.

105. The work and programmes of these institutions are financed by the State. The State also finances the protection of monuments of culture, irrespective of their national origin. In addition to these institutions and their activities, other institutions operate quite independently, such as the "Literary Society of Kosovo" and a large number of libraries, which pursue their activities on a largely nationalistic and separatist basis, but these institutions continue to be allowed to operate in State-owned premises.

UNITED
NATIONS

CERD

International Convention on the Elimination of all Forms of Racial Discrimination

Distr.
GENERAL

CERD/C/299/Add.18
26 September 1997

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Fourteenth periodic reports of States parties
due in 1996

Addendum

Niger*

[5 August 1997]

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* This document contains the eleventh, twelfth, thirteenth and fourteenth periodic reports of the Niger (consolidated in a single document) due on 4 January 1990, 1992, 1994 and 1996 respectively. With regard to the eighth, ninth and tenth periodic reports of the Niger, consolidated in a single document, and the summary records of the meetings at which the Committee considered those reports, see documents CERD/C/172/Add.1 and CERD/C/SR.838 respectively.

The information submitted by the Niger in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the core document (HRI/CORE/1/Add.45).

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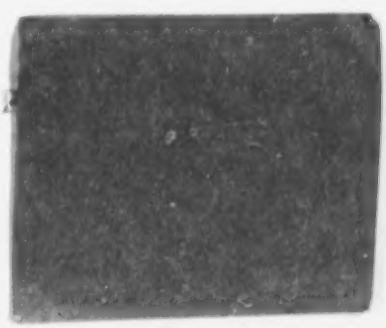

PART I: GENERAL

A. General legal framework for the prohibition of racial discrimination

1. With the advent of democracy in Africa, the Niger organized a national conference from 29 July to 3 November 1991. This conference disbanded all existing institutions. Only the President of the Republic and the Supreme Court were maintained, the former with a purely formal role. The conference established a Higher Council of the Republic, which served as a parliament.

2. The conference also established a transitional regime for a period of 15 months from November 1991 to January 1993. One of the main tasks assigned to this regime was to complete the democratic process by organizing the various elections (legislative, presidential and municipal) in a free and transparent manner. It was in this context that a commission on fundamental enactments was set up. This commission proceeded to draft the Constitution of the Third Republic, which was adopted by referendum on 26 December 1992. The Constitution enshrined political pluralism and established a semi-presidential regime.

3. However, the cohabitation which followed the early legislative elections of 12 January 1995 did not function successfully. The impasse caused by its inoperability lay at the origin of the coup d'état of 27 January 1996, when a new period of transition began, continuing until the establishment of new institutions. During this period a new Constitution was drafted and adopted by referendum.

4. Under this Constitution (of 12 May 1996) the Niger is a State subject to the rule of law. Article 8 of the Constitution stipulates that "The Republic of the Niger is a State subject to the rule of law. It ensures equality before the law to all persons, without distinction as to sex or social, racial, ethnic or religious origin". Article 15 goes on to say: "No one may be arrested or charged except under a law which entered into force prior to the act which he is suspected of committing".

5. Similarly, Title II of the Constitution guarantees citizens a whole range of fundamental rights and freedoms, namely, the rights to life, health, security, education and instruction, the freedoms of thought, opinion, expression and assembly, the freedom to demonstrate, etc. Article 12 of the Constitution provides that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".

6. Any specific propaganda of a regionalist, racial or ethnic character or any manifestation of racial or ethnic discrimination is punishable by law, in accordance with article 8. Article 9 bans political parties of an ethnic or regionalist character.

B. Ethnic and demographic characteristics

7. The Niger is a Sahelian country situated in central west Africa and covers an area of 1,267,000 km^2. It has an estimated population of 9 million inhabitants, of whom 50.4 per cent are female. With its vast size, the Niger

shares long borders with most of its neighbours, which are Algeria and Libya to the north, Nigeria and Benin to the south, Chad to the east and Mali and Burkina Faso to the west.

8. Given its situation, the Niger is subject to a Sahelo-Saharan type of climate which is characterized by low rainfall unevenly distributed in both area and time.

9. In administrative terms, the country is divided into 7 departments, 1 urban community (Niamey), 36 arrondissements, 27 administrative centres, 18 urban communes and 3 rural communes.

10. Eight ethnic groups make up the population of the Niger, which is largely Muslim. These groups are: the Arabs, Gurma, Hausa, Kanuri, Peulh, Tuareg, the Tubu, and Djerma and Songhai.

11. The chief characteristic of the population is its extreme youth (45 per cent are aged under 15, and 56 per cent under 20).

12. More than 80 per cent of the population are illiterate. Only 24 per cent of children of school age are enrolled in a school and girls account for under 23 per cent of these enrolled children. The rate is even lower at the secondary level and negligible at the higher level.

13. The population is very unevenly distributed. The average density is 5.7 inhabitants per km^2, but it is 27 per km^2 in the south of the country. Most of the population live in rural areas (85 per cent, as opposed to 15 per cent in the towns). However, for a number of years, because of successive droughts, there has been a mass population movement from the countryside to the towns. This may well cause serious problems in terms of both infrastructure and services (housing, water, sanitation, health, education, employment, etc.).

PART II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

14. Racial discrimination does not exist in the Niger. Consequently, the competent authorities have not deemed it advisable to take special measures as required under article 2, paragraph 1 (a), (b), (c) and (d), of the Convention. As regards paragraph 1 (e), article 2 of Order No. 84-6 of 1 March 1984 establishing the regulations governing associations bans associations of a regional or ethnic character.

15. There was an armed rebellion in the north of the country from 1991 to 1995. With the mediation of the People's Democratic Republic of Algeria, Burkina Faso and the French Republic, an agreement establishing a lasting peace was signed in Niamey on 24 April 1995 between the Government of the Republic of the Niger and the Armed Resistance Organization (ORA). The other fronts or movements, such as the FARS and the FDR, subsequently endorsed the agreement.

16. In order to mark their attachment to this peace agreement, the authorities of the Niger decided to institute a National Day of Concord, which is celebrated on 24 April of each year. This is an official, paid holiday throughout the country. On this day the authorities organize sports and cultural events in order to encourage support for peace and national unity among all the inhabitants.

17. In order to implement the provisions of the peace agreement, the Government set up the Office of the High Commissioner for the Restoration of Peace (HCRP). The means necessary for its functioning are provided by the State. Other specific organs have also been set up. These include:

The Commission responsible for quartering former fighters in the armed resistance and the Tassara vigilance committee, established by Decree No. 97-154/PRN of 9 April 1997;

The Commission for the socio-economic integration and reintegration of former armed resistance fighters;

The Interministerial Committee responsible for supervising the activities of the commissions;

The National Commission for Coordination and Follow-Up of the operations to repatriate displaced Niger citizens in Algeria and Burkina Faso following the armed rebellion, established by Decree No. 97-220/PRN of 19 June 1997.

18. In the context of the programme for the social reintegration of demobilized ORA personnel, the Government has committed itself to take measures to engage them in labour-intensive projects in the area affected by the conflict.

19. It should also be pointed out that the Government has convened a round table to which it invited several donors with a view to mobilizing the necessary resources for the implementation of the peace agreement. This round table was held on 30 and 31 October 1996 at Tahoua and was presided over by the Prime Minister.

20. As regards public administration, the Government, desiring the active participation of all components of the population in the management of the affairs of the State and in the context of the consolidation of peace, undertakes to integrate demobilized ORA personnel at all levels of public administration, in accordance with the criteria of competence and the needs of the State. This will also apply to political office. However, it has to be acknowledged that the implementation of the peace agreement of 24 April 1995 will require enormous financial resources, which will entail considerable input on the part of donors.

Article 3

21. The Republic of the Niger, convinced that it is not possible to condemn the most brutal practice of racism (apartheid) and at the same time cooperate with a regime which raises this practice to the rank of national policy, never

maintained diplomatic or economic relations with the former regime in South Africa. Its position is illustrated by its accession, on 28 June 1978, to the International Convention on the Suppression and Punishment of the Crime of Apartheid.

Article 4

22. Any specific propaganda of a regionalist, racial or ethnic character or any manifestation of racial or ethnic discrimination is punishable by law, in accordance with article 8 of the Constitution of 12 May 1996. Within the Republic, foreigners enjoy the same rights and freedoms as citizens of the Niger, in the conditions determined by law.

23. Article 102 of the Penal Code declares any act of racial or ethnic discrimination to be a punishable offence. Article 2 of Order No. 84-6 of 1 March 1984 establishing the regulations governing associations prohibits associations of a regional or ethnic character.

24. An association of a regional or ethnic character is understood to mean:

Any association whose purpose is to maintain in a region of the Niger the particular features of another region, or another ethnic group or traditional practices of racial origin;

Any association of Niger citizens originating from a department, arrondissement, town, commune, canton, group, village or tribe of the Niger and resident in another department, arrondissement, town, commune, canton, group, village or tribe.

Article 5

25. Article 8 of the Constitution of 12 May 1996 guarantees equality before the law to all, without distinction as to sex, social, racial or ethnic origin, etc.

26. Article 13 of the Constitution categorizes as offences punishable by law acts of torture or cruel, inhuman or degrading treatment or punishment perpetrated by any individual or State employee in or on the occasion of the performance of his functions.

27. Article 108 of the Penal Code establishes a penalty of one to five years' imprisonment for this offence.

28. Article 6 of the Constitution reads as follows:

"The people exercises its sovereignty through its elected representatives and by referendum. The conditions for recourse to a referendum are determined by law.

The Supreme Court ensures the proper conduct of voting and proclaims the results of voting".

29. Under the terms of article 7 of the Constitution, suffrage is universal, free, equal, direct and secret. Citizens of the Niger of both sexes aged at least 18 years on the day of the vote, or emancipated minors, in possession of their civil and political rights are entitled to vote, in the conditions determined by law. All citizens of both sexes may stand for election, in the conditions determined by articles 93, 104 and 131 of the Electoral Code.

30. Article 7 of Order No. 89-18 of 8 December 1989 establishing the general statutes of the civil service determines the conditions to be fulfilled for appointment to public office. The final paragraph of the article stipulates that no distinction may be made between candidates of different sexes.

31. As regards article 5, paragraph (d) (i), (ii) and (ix), of the Convention, article 24 of the Constitution recognizes and guarantees freedom of movement and the freedoms of association and assembly in the conditions defined by law.

32. As to paragraph (d) (iii), Niger nationality is granted to any person who fulfils the conditions established in articles 8, 10, 11, 12, 13, 20, 21, 22 and 24 of Order No. 84-33 of 23 August 1984 establishing the Niger Nationality Code.

33. With regard to paragraph (d) (iv), article 18 of the Constitution states that marriage and the family constitute the natural and moral basis of the human community. They are placed under the protection of the State. For the majority of Niger citizens, matters relating to marriage are governed by Muslim custom. It should, however, be pointed out that forced marriage is prohibited in accordance with the dictates of the Muslim religion. Each person freely chooses his spouse.

34. In connection with paragraph (d) (v), article 21 of the Constitution stipulates that "Every person has the right to own property. No one may be deprived of his property except for reasons of public interest and subject to fair and prior compensation".

35. As regards paragraph (d) (vi), Muslim custom as applied by the cadis, and also the courts and the Civil Code recognize the right to inherit.

36. As to paragraph (d) (vii) and (viii), the right to freedom of thought, conscience, religion, opinion and expression is established by article 23 of the Constitution.

37. With regard to paragraph (e) relating to economic, social and cultural rights, article 25 of the Constitution recognizes the right to work, which is respected to the extent of the State's resources. Article 26 of the Constitution recognizes and guarantees trade-union rights, which are also recognized in respect of civil servants by article 19 of Order No. 89-18 of 8 December 1989 establishing the general statutes of the civil service.

38. In connection with the right to housing, in addition to article 21 of the Constitution which guarantees the right to own property, article 20 stipulates that "The home is inviolable. A search of the home may be ordered only in the forms and conditions provided for by law". Every person has the right to rent or purchase a dwelling.

39. The right to health is established by article 11 of the Constitution. However, in view of the prevailing economic difficulties medical care, which was formerly free of charge, now largely has to be paid for. This new trend may have adverse consequences for the health of the rural population, which constitutes the main component of the total population. Social security exists only for a particular category of State employees and employees of private companies.

40. The right to education is also guaranteed by article 11 of the Constitution. An effort is being made by the State to respect this right, and so the teaching and planning of the so-called "nomadic schools", which move around with the populations concerned, are free of charge. The Ministry of Education has also drawn up literacy programmes for adult men and women who have not had the opportunity of attending school. Despite the will of the State, the right to education can be ensured only to the extent of its financial and human capacities.

41. As regards the right to culture, cultural centres are open to the public without any discrimination. The Niger National Radio and Television Office (ORTN) broadcasts cultural programmes in all the national languages.

Article 6

42. Any act of racial or ethnic discrimination is punishable by law (Penal Code, article 102). Similarly, any victim of racial or ethnic discrimination whose individual rights and fundamental freedoms have been violated may take legal action to secure redress for the injury suffered. The last paragraph of article 8 of the Constitution stipulates that "Foreigners within the territory of the Republic enjoy the same rights and freedoms as citizens of the Niger in the conditions determined by law".

Article 7

43. In this connection, the Ministry of Education has launched the civic and moral education (ICM) programme which occupies a very important position in the education system. It prepares teenagers in schools for their harmonious integration in society with the aim of making them fully responsible citizens. The ICM programme is intended to make young people aware of certain facts which (a) concern them as members of a group and (b) may induce them, through critical reflection, to adapt their conduct to the social environment in which they live.

44. One of the themes of this programme is "the development of feelings of brotherhood, friendship, tolerance and solidarity through self-respect and respect for others, emphasizing the acceptance of others". The methodology

used in this programme, which is based on talks and discussion, enables certain virtues, including tolerance, to be cultivated in the students concerned.

45. Thus on the occasion of the National Day of Concord instituted by Decree No. 96-084/PCSN of 4 April 1997, the Ministry devoted the day of 23 April 1997 to lessons in all schools in praise of peace, brotherhood and concord between Niger citizens.

46. In addition, in conjunction with the Niger Association for the Defence of Human Rights, the Minister of Education launched the schools human rights education programme in January 1997. For the first year, 15 middle and high schools were selected and teachers were trained to conduct the relevant classes. Through this programme, the Ministry of Education intends to establish a genuine democratic culture by explaining to young people democratic attitudes and principles in school, in the family, in the district and in the village.

47. Lastly, the Ministry of Education is promoting the establishment of non-governmental organizations, such as the Niger section of the World Association for the School as an Instrument of Peace (EIP/NIGER), which is developing activities relating to education, human rights and peace. EIP/NIGER has organized training courses for teachers.